

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

RICKY SWIFT,)	
)	
Petitioner)	
v.)	CAUSE NO. 3:04-CV-758 RM
)	(arising under 3:99-CR-44(01) RM)
UNITED STATES OF AMERICA,)	
)	
Respondent)	

OPINION AND ORDER

Ricky Swift filed a notice of appeal and moves this court for *in forma pauperis* status, as well as a certificate of appealability. It appears from Mr. Swift's motion and financial declaration that he has met the requirements set forth in 28 U.S.C. § 1915. However, issuance of a certificate of appealability requires the court to find that Mr. Swift has made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2), which he has not. Mr. Swift seeks appellate review of the court's June 7 order denying his Rule 59 motion, which asked this court revisit issues already raised in his first § 2255 petition and address new claims via a new § 2255 petition. As stated in the June 7 order, the court has no jurisdiction to readdress claims from his first § 2255 petition nor address new claims in a new § 2255 petition without an order from the court of appeals authorizing the court to do so. Consequently, the June 7 order cannot serve as the basis for issuing a certificate of appealability.

Mr. Swift's motion for *in forma pauperis* status is GRANTED [Doc. No. 221], but his request for a certificate of appealability is DENIED [Doc. No. 222].

SO ORDERED.

ENTERED: August 16, 2006

/s/ Robert L. Miller, Jr.
Chief Judge
United States District Court